

1 STEVEN G. KALAR
2 Federal Public Defender
3 NED SMOCK
4 Assistant Federal Public Defender
5 1301 Clay Street, Suite 1350N
Oakland, CA 94612
Telephone: (510) 637-3500
Fax: (510) 637-3507
Email: ned_smock@fd.org

6 Counsel for Defendant
MARK HERNANDEZ

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA.

CR 16-00375 MAG

PLAINTIFF,

V.

13 || MARK HERNANDEZ

STIPULATION AND [PROPOSED] ORDER SEEKING
CONTINUANCE AND EXCLUSION OF TIME UNDER
THE SPEEDY TRIAL ACT

14 DEFENDANT.

16 The parties hereby request that the status hearing date of October 5, 2016, presently
17 scheduled at 9:30 a.m. before the Honorable Kandis Westmore, be vacated and the matter be reset
for November 2, 2016.

19 This misdemeanor case involves allegations of Delay or Destruction of Mail. Mr.
20 Hernandez made his initial appearance less than one month ago. The government has since turned
21 over discovery to the defense, including video footage. The defense has been engaged in review of
22 that discovery and needs additional time to complete that review and perform independent
23 research. In addition, the parties have begun discussing a possible resolution of this matter. More
 time is needed to meet with Mr. Hernandez to discuss his options. The parties anticipate that if a

CR 16-00375 MAG
Stip. to Continuance

1 resolution is not reached by the November 2 date, the parties will be prepared to set a motion
2 schedule.

3 Defendant's counsel represents that he has fully informed his client of his Speedy Trial
4 rights and that, to his knowledge, his client understands those rights and agrees to waive them.
5 Defendant's counsel further believes that his client's decision to give up the right to be brought to
6 trial earlier than if time were not excluded from the Speedy Trial Act is an informed and voluntary
7 one.

8 The parties agree and stipulate that time under the Speedy Trial Act should be excluded
9 from the date of this filing until November 2, 2016, under 18 U.S.C. §3161(h)(1)(G) and 18
10 U.S.C. §3161(h)(7)(B)(iv), for effective preparation of defense counsel while further investigation
11 is conducted and legal research is performed.

12 DATED: October 4, 2016

/S/
NED SMOCK
Assistant Federal Public Defender
Counsel for Mark Hernandez

15 DATED: October 4, 2016

/S/
PHILIP KOPCZYNSKI
Assistant United States Attorney

21

22

23

24

25 CR 16-00375 MAG
Stip. to Continuance

1 STEVEN G. KALAR
2 Federal Public Defender
3 NED SMOCK
4 Assistant Federal Public Defender
5 1301 Clay Street, Suite 1350N
Oakland, CA 94612
Telephone: (510) 637-3500
Fax: (510) 637-3507
Email: ned_smock@fd.org

6 Counsel for Defendant
7 MARK HERNANDEZ

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

10 UNITED STATES OF AMERICA, CR 16-375 MAG
11 PLAINTIFF, [PROPOSED] ORDER
12 v.
13 MARK HERNANDEZ
14 DEFENDANT.

15 Based on the assertions and agreement of the parties as set forth in the parties' filed
16 Stipulation dated October 4, 2016, IT IS HEREBY ORDERED THAT the above-captioned matter
17 is continued to November 2, 2016, at 9:30 a.m., before the Honorable Donna M. Ryu, for further
18 status.

19 The Court further finds that failing to exclude the time between the date of this filing and
20 November 2, 2016, would unreasonably deny defense counsel the reasonable time necessary for
21 effective preparation, taking into account the exercise of due diligence and availability of defense
22 counsel. 18 U.S.C. § 3161(h)(7)(B)(iv). The Court further finds that the ends of justice served by

1 excluding the time between now and November 2, 2016, from computation under the Speedy Trial
2 Act outweigh the best interests of the public and the defendant in a speedy trial.

3 Accordingly, IT IS FURTHER ORDERED that the time between today's date and
4 November 2, 2016, shall be excluded from computation under the Speedy Trial Act. 18 U.S.C.
5 § 3161(h)(7)(B)(iv).

6

7 IT IS SO ORDERED.

8

9 DATED: 10/4/16


HON. KANDIS WESTMORE
UNITED STATES MAGISTRATE JUDGE

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25 CR 16-00375 MAG
Stip. to Continuance